

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

The Burlington Northern and Santa Fe Railway Company; the  
City of Galesburg; and the State of Illinois, Department of  
Transportation.

Stipulated Agreement regarding improving public safety at the  
crossings of the Company's track with public highways known as  
Seminary Street and Seminary Street located in the City of  
Galesburg, Knox County, Illinois, designated as crossings  
(AAR/DOT 062 987E, milepost .26-P) and (AAR/DOT 062 988L,  
milepost .16-P), respectively.

T03-0018

ORDER

By the Commission:

On November 20, 2002, December 16, 2002, December 16, 2002, and February 24, 2003, the Staff of the Illinois Commerce Commission, The Burlington Northern and Santa Fe Railway Company, the City of Galesburg and the Illinois Department of Transportation, respectively, executed the Stipulated Agreement according to the provisions of Section 18c-7401 of the Illinois Commercial Transportation Law. The Stipulated Agreement, which is appended hereto, provides for safety improvements at the crossings of The Burlington Northern and Santa Fe Railway Company 's track with public highways known as the North Seminary Street, and South Seminary Street located in the City of Galesburg, Knox County, Illinois. The Stipulated Agreement contains estimates of cost to accomplish the improvements and a division of cost among the parties.

The Commission, having given due consideration to the Stipulated Agreement, finds that:

- (1) the Commission has jurisdiction over the parties and the subject matter of this proceeding;
- (2) the physical characteristics of the subject highway - railroad grade crossings, rail and highway volumes and speeds are indicated on Exhibits A, and A-1 of the Stipulated Agreement, appended hereto;
- (3) the Parties agree that in the interest of public safety the improvements as set forth in Section 2 of the Stipulated Agreement, appended hereto, should be performed;
- (4) the cost for the proposed improvements should be divided among the parties and the Grade Crossing Protection Fund of the Motor Fuel Tax Law,

in accordance with the Law;

- (5) it is fair and reasonable that the Secretary of the Illinois Department of Transportation through the Grade Crossing Protection Fund of the Motor Fuel Tax Law, and The Burlington Northern and Santa Fe Railway Company be directed to bear their respective portions of the actual cost of the proposed improvements as set forth in Section 5 of the Stipulated Agreement, appended hereto.

IT IS THEREFORE ORDERED that the terms of the Stipulated Agreement executed by the Staff of the Illinois Commerce Commission, The Burlington Northern and Santa Fe Railway Company, the City of Galesburg and the Illinois Department of Transportation on November 20, 2002, December 16, 2002, December 16, 2002, and February 24, 2003, respectively, be, and they are hereby accepted and required to be met by the aforesaid parties.

IT IS FURTHER ORDERED that The Burlington Northern and Santa Fe Railway Company be, and it is hereby, required and directed to proceed immediately in performing its work as set forth in Section 2 of the Stipulated Agreement, appended hereto, and shall complete its work within one (1) year from the date of this Order.

IT IS FURTHER ORDERED that the cost of making the improvements herein required shall be divided among the parties and the Grade Crossing Protection Fund of the Motor Fuel Tax Law, as set forth in Section 5 of the Stipulated Agreement, appended hereto.

IT IS FURTHER ORDERED that The Burlington Northern and Santa Fe Railway Company shall file Form 3 of 92 Ill. Adm. Code 1535 of this Commission, one for each location, showing details of the automatic warning devices herein required and shall receive approval thereof by X-Resolution before commencing the work of installation.

IT IS FURTHER ORDERED that all bills for expenditures authorized to be reimbursed from the Grade Crossing Protection Fund shall be submitted to Fiscal Control Unit of the Illinois Department of Transportation's Bureau of Local Roads and Streets, Main Office, 2300 South Dirksen Parkway, Springfield, Illinois, 62764. The Illinois Department of Transportation shall submit a copy of each bill to the Director of Processing and Information, Transportation Bureau of the Commission. The final bill for expenditures shall be clearly marked "Final Bill". All bills shall be submitted to the Department no later than twenty-four (24) months from the date of this Order. Authorization for reimbursement from the Grade Crossing Protection Fund shall expire twelve (12) months after the completion date specified in this Order. The Department shall, at the end of the 24<sup>th</sup> month from this Order date, de-obligate all residual funds

accountable for installation costs for this project.

IT IS FURTHER ORDERED that The Burlington Northern and Santa Fe Railway Company shall at six (6) month intervals from the date of this Order until the project has been completed, submit written reports to the Director of Processing, Transportation Bureau of the Commission stating the progress it has made toward completion of the work herein required. Each progress report shall include the Commission Order Number, the Order Date, the project completion date as noted in this Order, crossing information (Inventory Number and Railroad Milepost), type of improvement, and project manager information (the name, title, mailing address, phone number and facsimile of the Railroad employee responsible for management of the project.)

IT IS FURTHER ORDERED that The Burlington Northern and Santa Fe Railway Company shall submit to the Director of Processing, Transportation Bureau of the Commission within five (5) days of the completion of the work herein required, a National Inventory Update Report Form as a notice of said completion.

IT IS FURTHER ORDERED that The Burlington Northern and Santa Fe Railway Company shall at six (6) month intervals from the date of this Order until the project has been completed, submit written reports to the Director of Processing, Transportation Bureau of the Commission stating the status of expenditures of the total project and percentage of completion of the project. If the project is behind schedule the report(s) must also include a brief explanation of the reason(s) for the delay.

IT IS FURTHER ORDERED that, subject to Section 18c-2201 and 18c-2206 of the Law, this is a final decision subject to the Administrative Review Law.

By Order of the Commission this 26th day of March, 2003.

*Edward C. Husley* <sub>2</sub>

Chairman

JUDGE
SECTION CHIEF <i>MES</i>
<i>[Signature]</i> ORDERS SUPERVISOR